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DEPARTMENT OF EDUCATION

Tribally Controlled Postsecondary Career and Technical Institutions Program; Proposed Waivers and Extension of the Project Period; CFDA Number 84.245A

AGENCY: Office of Vocational and Adult Education,
Department of Education.

ACTION: Notice.

SUMMARY: For 60-month projects funded in fiscal year (FY) 2007 under the Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP), the Secretary proposes to waive the regulations that generally limit project periods to 60 months and that restrict project period extensions involving the obligation of additional Federal funds. The Secretary also proposes to extend the project period for current TCPCTIP grantees through FY 2013, or longer, if Congress continues to appropriate funds under the existing program authority. The proposed waivers and extension would enable the two current TCPCTIP grantees to request and continue to receive Federal funding beyond the 60-month limitation contained in the Department's regulations, so long as the grantees are meeting the

TCPCTIP requirements. Further, the waivers and extension, as proposed, would mean that we would not announce a new competition in FY 2012 or make new awards in that year, or in future years, if Congress continues to appropriate funds under the existing program authority.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit all comments on this notice to Gwen Washington, U.S. Department of Education, 400 Maryland Avenue, SW., room 11076, Potomac Center Plaza, Washington, DC 20202-7241.

If you prefer to send your comments by email, use the following address: gwen.washington@ed.gov. You must include the term "Proposed Waivers and Extension for TCPCTIP" in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Gwen Washington.

Telephone: (202) 245-7792, or by email:
gwen.washington@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. We are particularly interested in receiving comments on the potential impact that these proposed waivers and extension may have on TCPCTIP and on potential applicants that may be eligible to apply for grant awards under any new TCPCTIP notice inviting applications, should there be one.

Eligible applicants for TCPCTIP are tribally controlled postsecondary career and technical institutions that do not receive Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.).

During and after the comment period, you may inspect all public comments about these proposed waivers and extension for TCPCTIP in room 11076, Potomac Center Plaza, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week, except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record

for this notice of proposed waivers and extension. If you want to schedule an appointment for this type of aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background

Current TCPCTIP grantees, selected based on the May 15, 2007, TCPCTIP notice inviting applications published in the Federal Register (72 FR 27297) (May 15, 2007, notice), operate career and technical education programs as authorized by section 117 of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act or Act) (20 U.S.C. 2327).

The project period for the two TCPCTIP grantees is scheduled to end in FY 2012. For these projects, the Secretary proposes to waive the requirements of 34 CFR 75.250 and 34 CFR 75.261(c)(2), which limit project periods to 60 months and restrict project period extensions that involve the obligation of additional Federal funds. The Secretary also proposes to extend the project period for the two current TCPCTIP grantees through FY 2013, or longer, if Congress continues to appropriate funds under the existing program authority. The proposed waivers and extension would enable the two current TCPCTIP grantees to

request and continue to receive Federal funds beyond the 60-month limitation set by 34 CFR 75.250.

The Secretary makes these proposals because section 117(i) of the Perkins Act authorizes appropriations for activities under section 117 of the Act, through FY 2012 (20 U.S.C. 2327(i)). With the potential for changes in the authorizing legislation for the TCPCTIP beyond 2012, we do not believe it would be advisable to hold a new TCPCTIP competition in FY 2012 for projects that may then operate for just one year. We are generally reluctant to announce a competition under which eligible entities would be expected to proceed through the application process while lacking critical information about the future of the program, and we do not think that it would be in the public interest to do so in this case.

Rather than holding a new competition in FY 2012, we believe that it is in the public interest and preferable for TCPCTIP for us to review requests for continuation awards from the two grantees based on the May 15, 2007, notice and extend the currently funded projects through FY 2013, or longer, if Congress continues to appropriate funds for TCPCTIP under the existing program authority. In lieu of announcing new competitions for TCPCTIP in FY 2012, the Secretary proposes to waive the requirement in 34 CFR

75.250, which limits project periods to 60 months, and in 34 CFR 75.261(c)(2), which restricts project period extensions involving the obligation of additional Federal funds.

With these proposed waivers and extension, current TCPCTIP grantees selected based on the May 15, 2007, notice inviting applications could be continued at least through the FY 2013 budget and project periods, or longer, if Congress continues to appropriate funds for TCPCTIP under the existing program authority.

If these proposed waivers and extension are announced by us in a final notice, the requirements applicable to continuation awards for current TCPCTIP grantees selected based on the May 15, 2007, notice inviting applications and the requirements in 34 CFR 75.253 would apply to any continuation awards sought by current TCPCTIP grantees. If we announce these proposed waivers and extension as final, we will base our decisions regarding annual continuation awards on the program narratives, budgets, budget narratives, and program performance reports, submitted by current grantees, and the requirements in 34 CFR 75.253. Any activities to be carried out during the year or years of continuation awards would have to be consistent with, or be a logical extension of, the scope, goals, and objectives

of each grantee's application, as approved following the 2007 TCPCTIP competition. If we publish the proposed waivers and extension as final, we would award continuation grants based on information provided to us by each grantee, indicating that it is making substantial progress performing its TCPCTIP grant activities.

The proposed extension of the project period and waivers of 34 CFR 75.250 and 75.261(c)(2) would not exempt the current TCPCTIP grantees from the appropriation account-closing provisions of 31 U.S.C. 1552(a), nor would they extend the availability of funds previously awarded to current TCPCTIP grantees. As a result of 31 U.S.C. 1552(a), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the U.S. Treasury Department and is unavailable for restoration for any purpose (31 U.S.C. 1552(b)).

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waivers and extension would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed waivers and extension are the two grantees selected based on the May 15, 2007, notice currently receiving Federal funds.

The Secretary certifies that the proposed waivers and extension would not have a significant economic impact on these entities because the proposed waivers and extension impose minimal compliance costs to extend projects already in existence, and the activities required to support the additional year or years of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of proposed waivers and extension does not contain any information collection requirements.

Intergovernmental Review

The TCPCTIP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 2327.

Dated: February 13, 2012

Brenda Dann-Messier,
Assistant Secretary for
Vocational and Adult Education.

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